

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:22-cv-847-LCB-JLW**

JOHN D. SULLIVAN,)	
)	
PLAINTIFF,)	
)	
v.)	DEFENDANT’S PARTIAL
)	MOTION TO DISMISS
THE UNIVERSITY OF NORTH)	
CAROLINA HEALTH CARE)	
SYSTEM,)	
)	
DEFENDANT.)	

The University of North Carolina Health Care System (“Defendant” or “UNC Health”), named as Defendant in this matter, hereby moves pursuant to Rule 12(b)(6) of the Federal Rules of Procedure to dismiss the discriminatory demotion claim asserted by Plaintiff John D. Sullivan (“Plaintiff” or “Sullivan”).

Plaintiff failed to exhaust his administrative remedies before the U.S. Equal Employment Opportunity Commission (“EEOC”) as required by the Age Discrimination in Employment Act, 29 U.S.C. §§ 621, *et seq.* Although he filed a Charge of Discrimination on June 11, 2021, the Charge contained no reference to the alleged discriminatory demotion. Moreover, the Charge would have been untimely as to the demotion, which occurred almost two years previously, on June 30, 2019.

For these reasons, Sullivan has failed to state a claim upon which relief may be granted.

WHEREFORE, Defendant respectfully requests that the Court dismiss with prejudice Sullivan's discriminatory demotion claim. In support of this motion, UNC Health submits EEOC Charge No. 433-2021-01473, which is attached hereto as "Exhibit A," and a separately filed memorandum of law.

This the 16th day of December, 2022.

/s/Jill S. Stricklin

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed **Defendant's Partial Motion to Dismiss** with the Clerk of the Court using the CM/ECF system to the following:

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This the 16th day of December, 2022.

/s/Jill S. Stricklin

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